



California Environmental Protection Agency

Air Resources Board • Department of Pesticide Regulation • Department of Toxic Substances Control
Integrated Waste Management Board • Office of Environmental Health Hazard Assessment
State Water Resources Control Board • Regional Water Quality Control Boards



Linda S. Adams
Secretary for
Environmental
Protection

Arnold Schwarzenegger
Governor

September 20, 2006

Certified Mail: 7003 1680 0000 6174 7688

Eric Carlson, Fire Marshall
Livermore/Pleasanton Fire Department
3650 Nevada Street
Pleasanton, CA 94566

Dear Mr. Carlson

The California Environmental Protection Agency (Cal/EPA), Office of Emergency Services, Office of the State Fire Marshal, Department of Toxic Substances Control, and the State Water Resources Control Board conducted a program evaluation of Livermore/Pleasanton Fire Department's Certified Unified Program Agency (CUPA) on January 11 and 12, 2005. The evaluation consisted of a review of program elements, an in-office program review and field inspections. Following the evaluation, the state evaluators completed a Certified Unified Program Agency Evaluation, Summary of Findings, which was reviewed with your agency's program management staff.

The evaluation summary of findings includes identified deficiencies, corrective action to be taken and timeframes for correction of identified deficiencies. Two additional evaluation documents are the Program Observations and Recommendations and the Examples of Outstanding Program Implementation. I have reviewed the enclosed copy of the final Evaluation Report, which includes information from all of the evaluation documents, and I find that Livermore/Pleasanton Fire Department's program performance was unsatisfactory with improvement needed.

The Livermore/Pleasanton Fire Department CUPA responded to the initial Summary of Findings on March 10, 2005 with a detailed letter showing that a significant number of corrective actions were being incorporated into Livermore/Pleasanton Fire Department's CUPA program to address the noted deficiencies. Please provide an update to Cal/EPA on those corrective actions by October 22, 2006. After receiving your update, the evaluation team leader, Tina Gonzales, will review the updated corrective actions and coordinate with the other state agency evaluators as necessary to identify the remaining deficiencies. Ms. Gonzales will then coordinate with your agency to track the correction of any remaining deficiencies through quarterly reports of your progress.

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Thank you for your continued commitment to the protection of public health and the environment. If you have any questions or need further assistance, you may contact Jim Bohon, Manager, Cal/EPA Unified Program at (916) 327-5097 or jbohon@calepa.ca.gov.

Sincerely,

Don Johnson
Assistant Secretary
California Environmental Protection Agency

Enclosures

cc: Ms. Danielle Stephani
Hazardous Materials Program Coordinator
Livermore/Pleasanton Fire Department
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Pleasanton, CA 94566

Mr. John Paine (Sent Via Email)
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Ms. Loretta Sylve (Sent Via Email)
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Mr. Tom Asoo (Sent Via Email)
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Mr. Francis Mateo (Sent Via Email)
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Sacramento, California 94244-2460

Mr. Charles McLaughlin (Sent Via Email)
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STATE OF CALIFORNIA
ENVIRONMENTAL PROTECTION AGENCY



Alan C. Lloyd, PhD
Secretary for
Environmental
Protection

**CERTIFIED UNIFIED PROGRAM AGENCY EVALUATION
SUMMARY OF FINDINGS**

Arnold
Schwarzenegger
Governor

**CUPA: Livermore/Pleasanton Fire Department
Evaluation Date: January 11-12, 2005**

EVALUATION TEAM

CALEPA: Tina Gonzales
SWRCB: Ahmad Kashkoli
DTSC: Thomas Asoo
OES: Charles Snyder
OSFM: Francis Mateo

This Summary of Findings includes the deficiencies identified during the evaluation, observations and recommendations for program improvement, and examples of outstanding program implementation activities. The evaluation findings are preliminary and subject to change upon review by state agency and CUPA management. **Within 30-days from the evaluation date noted above, please complete and submit your response to each deficiency and recommendation identified in this Summary of Findings to the California Environmental Protection Agency.** Your response should identify the corrections made or actions to be taken and the date by which that correction will be completed for each deficiency. For each correction, please provide a copy of the revised document or other evidence of correction. Please submit these documents via e-mail, if maintained electronically, to Tina Gonzales at tinag@calepa.ca.gov or by mail to:

California Environmental Protection Agency
Attn: Tina Gonzales
Unified Program Section
1001 I Street, 2nd Floor
Sacramento, CA 95812

Questions or comments can be directed to Tina Gonzales at (916) 322-2155.

Certified Unified Program Agency (CUPA)
Evaluation Summary of Findings

**Recommended
Timeframe for
Correction**

	<u>Deficiencies</u>	<u>Citation</u>	<u>Recommended Timeframe for Correction</u>
1	The effective term of the permit element is missing from the Consolidated Permit Program Plan.	Title 27, Section CCR, 15190(c)(3)(E)	90 Days
2	The CUPA is not sending in all their Summary Reports due by September 30 th of each year, this will be a necessary component for the next evaluation process.	Title 27, CCR, Section 15290(a)(1), Title 27, CCR, Section 15290(a)(2)], Title 27, CCR, Section 15290(a)(3)]	Next Summary Report
3	The CUPA is not inspecting UST facilities annually. During the past fiscal year the CUPA inspected approximately 37% of the UST facilities in Cities of Livermore and Pleasanton.	H&S Code 6.7, Section 25288(a)	One Year
4	Business Plan certification statement The CUPA isn't receiving and/or filing all the annual statements. The CUPA must follow-up to ensure all statements are received	, HSC 25503.3(c)(2) and 25501(f) and CCR Title19 2729.4 and 2729.5.	One Year
5	The CUPA is not inspecting all regulated businesses in their jurisdiction at least once every 3 years. The "Annual Single Fee Summary Reports" for 2001-2002, 2002-2003, 2003-2004 documents that the CUPA has inspected approximately 75% of regulated businesses in their jurisdiction during the three-year period.	HSC 25508 (b)	One Year
6	The CUPA is not conducting inspections or taking enforcement in a manner consistent with State statute or regulation. To wit: the CUPA is not ensuring that businesses are updating or submitting annual Permit by Rule notifications (Seaway Semiconductor – latest notification observed in file 1999), and is not taking any enforcement at those businesses that fail to submit such information.	T27, CCR section 15200 and Title 22, CCR, section 67450.3(c)(1)	60 days
7	The CUPA has not amended its Inspection and Enforcement Plan to include a discussion of how the CUPA will expend 5% of its hazardous waste	T27, CCR, section 15200 and HSC 25201.4(c) and	60 days

Certified Unified Program Agency (CUPA)
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	related resources to the oversight of Universal Waste handlers and silver-only generators.	CUPA forum board position	
8	The CUPA is not citing violations in a manner consistent with the definitions of minor, Class II or Class I as provided in law and regulation. During the oversight inspection a potential Class I violation (mixing hazardous waste solvent with used oil) was not noted in the inspection report. Review of inspection records showed potential Class I violations (treatment without a hazardous waste permit and no financial assurance for closure)	T27, CCR, section 15200(f)(2)(C), HSC, sections 25110.8.5 and 25117.6, and T22, CCR, section 66260.10	30 days
9	The CUPA is unable to document that all facilities that have received a notice to comply citing minor violations have returned to compliance within 30 days of notification. Either the business must submit a Return to Compliance Certification in order to document its compliance or in the absence of certification the CUPA must re-inspect the business to confirm that compliance has been achieved.	T27, CCR, section 15200(f)(2)(C) and HSC, section 25187.8(g)(1)	30 days
10	The CUPA failed to take enforcement in a manner consistent with law in that the CUPA failed to take the appropriate enforcement for the following violations noted during file review: Inphenix was treating hazardous waste without a permit and no Return to Compliance observed within the required timeframe.	T27, CCR, section 15200(f)(2)(C), HSC, sections 25110.8.5 and 25117.6 and T22, section 66260.10	30 days
11	The CUPA is not taking timely formal enforcement by not initiating enforcement within 135 days of completion of the inspection. During the evaluation, formal enforcement on Seaway Semiconductor and Call Mac was not actively being initiated.	HSC, section 25401.4(c) and EO-02-003-PP and DTSC-CUPA AEO Workplan	60 days

CUPA Representative _____

(Print Name)

(Signature)

Evaluation Team Leader _____

(Signature)

(Telephone)

Certified Unified Program Agency (CUPA)
Evaluation Summary of Findings

Evaluation Team

_____	_____
(OES)	(SWRCB)
_____	_____
(OSFM)	(DTSC)

PROGRAM OBSERVATIONS AND RECOMMENDATIONS

1. **Observations:** UST upgrade certificate is no longer required. This language should be deleted from the agency's UST operating permit.

Recommendations: None

2. **Observations:** UST facility files reviewed either lacked plot plans, or the plot plans did not contain all the required elements. The plot plans were missing the location (tank, ATG, sump, UDC, monitoring panel, etc) of where the monitoring is performed.

Recommendations: The SWRCB strongly encourages the agency to require the facilities to submit plot plan and do a thorough review to make certain that have the required elements.

3. **Observations:** Cal/EPA is missing the CUPA application from it's files in the office.

Recommendations: Please provide a copy of the CUPA application to Cal/EPA for a file copy as needed for file review process.

4. **Observations:** Additional information could be added to the inspection report form to enhance the value of the report.

Recommendations: The inspection report forms can increase their value by having observations, such as, consistently identifying the waste streams, monthly quantities, and location of all accumulation areas. Facilities will benefit from detailed descriptions of violations and corrective measures. When taking enforcement actions, having a clear understanding of the violation is beneficial to your case (e.g. identify the substance, size of the tank/container, number of tanks/containers, and location of violations). Obtaining a facility map where the inspector could identify hazardous waste management areas is useful historical inspection report information.

5. **Observations:** Cameras are available to CUPA staff; however, photographs are not typically taken during inspections.

Recommendations: Taking pictures of observed violations and conditions at a facility is just another tool to improve and strengthen reports when informal or formal enforcement actions are pursued.

Certified Unified Program Agency (CUPA)
Evaluation Summary of Findings

- 6. Observations:** The CUPA and the Local City Attorney's Office do not appear to have a streamlined approach in taking AEOs. Formal enforcement cases are not being acted upon on some AEO's.

Recommendations: The Local City Attorney's Office should allow the CUPA's Fire Department to become the lead on initiating AEOs.

Certified Unified Program Agency (CUPA)
Evaluation Summary of Findings

EXAMPLES OF OUTSTANDING PROGRAM IMPLEMENTATION

1. We commend Danielle and her efforts to try and work with the Unified Program AEO process with her City Attorney and others to better the enforcement efforts of the Fire Department and Pollution crime cases. Also in her efforts to obtain and place portable computer devices in each vehicle for inspectors to take with them in the field to conduct their work easier.
2. CUPA inspector, John Rigter, is very knowledgeable about the UST program and did a thorough inspection of the 7-Eleven facility on January 10, 2005.
3. The UST facility files are neatly organized and information is easily obtained.
4. Business Plan information package for new or existing businesses
5. Monthly coordination meetings with local CUPAs
6. Participation with the CUPA Forum Board and the Annual CUPA Conference.
7. The CUPA spends an extended amount of time during inspections educating and helping businesses come into compliance with Unified Program requirements.
8. The CUPA utilizes DTSC's Haznet database system to gather facility waste disposal information prior to conducting inspections.
9. The CUPA has a well established complaint response program. DTSC complaint referrals were generally addressed in an expedient manner.
10. The CUPA has developed Generator and Tiered Permitting inspection checklists that are well developed. The CUPA has even added a separate Universal Waste generator checklist to aid inspectors in inspecting facilities and educating generators.